

REMARKS

1. Summary of the Office Action

Claims 1-16 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,390,238 (Kirk) in view of U.S. Patent No. 5,331,549 (Crawford, Jr.).

2. Election/Restriction

In response to the election/restriction requirement set forth in the Office Action mailed 10/27/2003, Applicant affirms the provisional election to prosecute the claims of Group I (claims 1-16), with traverse, as set forth below. The claims in Group II (claims 17-78) will be filed in a separate application and the Applicant reserves all rights in this regard.

3. Response to § 103 Rejections

Applicant respectfully traverses this rejection for the reasons set out below, and ask the Examiner for reconsideration.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaect, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

**THE PRIOR ART REFERENCES DO NOT TEACH OR SUGGEST ALL CLAIM LIMITATIONS,
WHEN CONSIDERED SINGULARLY OR IN COMBINATION AND ACCORDINGLY, THE CLAIMED
INVENTION CANNOT BE CONSIDERED OBVIOUS IN LIGHT OF THE CITED PRIOR ART.**

The Office Action concedes that Kirk is silent regarding “a script generator for generating a script program and sending the script program to the remote apparatus,” but suggests that Crawford teaches a script and script generator.

Irrespective of whether Crawford teaches generating a script or a script program, it certainly does not teach the claim limitation of using a script or script program to cause display of at least one query related to a health condition of the individual. Neither does a combination of Crawford and Kirk.

Instead, the monitors used in the Crawford system are not capable of providing this feature, which is common in one form or the other in all the current independent claims.

Specifically, Crawford characterizes its monitors as “dumb monitors” See, for example, Crawford starting at col. 7, line. 37 stating that “because of the structure of the system, in which an intelligent central server is used in conjunction with a large number of dumb monitors, each one of which is in direct communication with the central server, the whole system becomes not only a good deal less expensive than other types of monitoring systems, but a good deal more fault tolerant and more flexible.”

This does not suggest and certainly does not teach that these dumb monitors are either able to execute a script program or interpret a script to present health related queries to the individual. In fact, this description teaches away from the claimed invention.

Further, the DDE driver that the Office Action refers to is a driver that is an interface between various devices. There is nothing to suggest that this DDE driver can create anything that is transmitted to a remote apparatus and that is used to “cause display of at least one query related to a health condition of the individual on the display.”

In view of the above it is submitted that all independent claims are allowable and accordingly, all dependant claims are allowable as well.

THERE IS ALSO NO SUGGESTION OR MOTIVATION TO COMBINE THE REFERENCES.

It will be appreciated by one skilled in the art that there is also no suggestion or motivation to combine Kirk and Crawford. Kirk has a health support unit 30 that performs functionality such as voice recognition (see Fig. 4) thus requiring a reasonably high level of processing power. In total contrast to this, Crawford describes "large number of dumb monitors." Clearly, Kirk and Crawford teach away from each other.

In view of the above, it is submitted that neither Kirk nor Crawford, whether taken singularly or in combination, do not disclose all the limitations of claims 1-16, and 79-129 and the claims are therefore allowable.

In light of the above, Applicant respectfully submits that the rejection under 35 U.S.C. § 103 has been overcome, and withdrawal of this rejection is therefore respectfully requested.

4. Conclusion

Having tendered the above remarks, Applicant respectfully submits that all rejections have been addressed and that the claims are now in a condition for allowance, which is earnestly solicited.

It should furthermore be noted that the above amendments to the claims have not been made within view to overcoming any prior art of which the Applicants are aware, or that has been cited in the present Office Action. The above amendments have been made with a view more clearly to define the invention.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact André Marais at (408) 947-8200 ext. 204.

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Respectfully submitted,

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